

REMARKS

Objection to the replacement drawings is noted, and improved copies conforming to draftsperson requirements will be submitted shortly.

The disclosure is amended at page 8, to comport with the Examiner's requirement. Acceptance is solicited.

Claims 1-2, 10, 17-18 and 20-21 stand rejected as anticipated by or obvious over Brownlee. The Examiner's rationale for this rejection in part is predicated on her interpretation of what is described as numeral 100 in Fig. 8, positing that layer 100 is not necessarily "the only layer, whether this layer is two plies, one ply or one ply of two plies, whether it has fasteners and leg fasteners and how such are related to ...". The Examiner appears to surmise that there may be another layer beneath layer 100 (but which is a part of layer 100), through which stitching does not extend. This is a surprising interpretation, that is not credible and accordingly traversed. Layer 100 is what it is depicted to be in Figs. 7 et seq., noting specifically that in Fig. 7, the stitching is shown to penetrate the single layer, exposed at the upturned portion facing the viewer. No other layers are depicted or described; more cannot appropriately be read into what is presented by the reference.

As an additional feature distinction over Brownlee, expressed in claim 1 as amended, the anchor layer (16 in Fig. 1A) to which the inner layer of fluid-resistant material is stitched, is itself of a fluid absorbent material. Support for this recitation is in the specification at page 6, lines 17 et seq. Brownlee's corresponding layer 100 is water repellent (see column 4, lines 54 et seq.). Making the anchor layer fluid absorbent, rather than resistant, within the context of claim 1 is important because the absorbent material takes in fluid that inevitably passes through its stitching, that otherwise would pass through to outer layer 12 and ultimately potentially, to

bedding outerwear. Another advantage is comfort. Whereas Brownlee uses sonic welding to form the pocket and then stitching through to polyester fabric 100, resulting in a stiff, relatively uncomfortable fit, claim 1 stitches the inner layer to an absorbent anchor layer -- soft and pliable for enhanced comfort to the user.

Additional features recited in claims 2, 10 and 21 support further patentability. As regards claim 10, the Examiner's position that the claim recites a product-by-process. Her position in this regard is traversed. This claim focuses specifically on structure; surely anyone can visualize what is being described in terms of an undergarment product with a rectangular inner layer having triangular corner portions removed (omitted), and remaining adjacent sides joined together, with outer edge of the resultant pocket covered by an elastic strip. In this sense, the words "removed" and "joined together" are structural. Nevertheless, for clarity, but not for narrowing of claim scope, the term "removed" is changed to "omitted," and other cosmetic changes made.

Claim 19, rejected over Brownlee in view of Coates and Ohara is traversed, as there is dependency from an allowable claim. Furthermore, claim 19 is amended slightly to express more clearly what is intended -- that the elastic strip circumscribes all four sides of the inner layer, as depicted in Fig. 1.

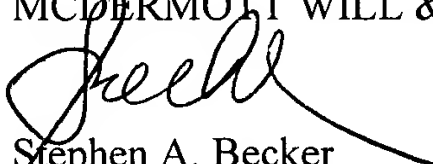
Favorable reconsideration of this application, as amended, is respectfully requested.

09/512,085

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT WILL & EMERY LLP



Stephen A. Becker
Registration No. 26,527

600 13th Street, N.W.
Washington, DC 20005-3096
202.756.8000 SAB:cms:men
Facsimile: 202.756.8087
Date: November 11, 2004